

week regardless of the amount of covered activities which are involved. The covered activities must, however, be regular or recurring rather than isolated, sporadic or occasional.⁹

(c) *On covered construction projects.* All employees who are employed in connection with construction work which is closely or intimately related to the functioning of existing instrumentalities and channels of interstate commerce or facilities for the production of goods for such commerce are within the scope of the Act. Closely or intimately related construction work includes the maintenance, repair, reconstruction, redesigning, improvement, replacement, enlargement or extension of a covered facility.¹⁰ If the construction project is subject to the Act, all employees who participate in the integrated effort are covered, including not only those who are engaged in work at the site of the construction such as mechanics, laborers, handymen, truckdrivers, watchmen, guards, timekeepers, inspectors, checkers, surveyors, payroll workers, and repair men, but also office, clerical, bookkeeping, auditing, promotional, drafting, engineering, custodial and stock room employees.¹¹

(d) *On non-covered construction projects.* (1) A construction project maybe purely local and, therefore, not covered, but some individual employees may nonetheless be covered on independent ground by reason of their interstate activities. Under the principle that coverage depends upon the particular activities of the employee and not on the nature of the business of the employer, individual employees engaged in interstate activities are covered even though their activities may be performed in connection with a non-covered construction project. Thus, the

Act is applicable to employees who are regularly engaged in ordering or procuring materials and equipment from outside the State or receiving, unloading, checking, watching or guarding such goods while they are still in transit. For example, laborers on a non-covered construction project who regularly unload materials and equipment from vehicles or railroad cars which are transporting such articles from other States are performing covered work.¹²

(2) Similarly, employees who regularly use instrumentalities of commerce, such as the telephone, telegraph and mails for interstate communication are within the scope of the Act, as are employees who are regularly engaged in preparing, handling, or otherwise working on goods which will be sent to other States. This includes the preparation of plans, orders, estimates, accounts, reports and letters for interstate transmittal.

§ 776.24 Travel in connection with construction projects.

The Act also applies to employees who regularly travel across State lines in the performance of their duties, even though the construction project itself is not covered.¹³ If an employee regularly transports persons, materials, or equipment between jobs across State lines, or to a covered project, even within the State, as part of his duties for the contractor, he would be covered. As in other situations, the Act would not apply if crossing State lines or transporting persons, materials or equipment by the employee was isolated or sporadic rather than regular and recurring. Also, ordinary home-to-work travel, even across State lines, is not covered.

⁹ See General Coverage Bulletin, §§ 776.2 and 776.4

¹⁰ *Walling v. McCrady Const. Co.*, 156 F. (2d) 932, certiorari denied 329 U.S. 785; *Chambers Construction Co. and L. H. Chambers v. Mitchell*, decided June 5, 1956 (C.A. 8); *Tobin v. Pennington-Winter Const. Co.* ante; *Mitchell v. Vollmer & Co.*, ante.

¹¹ *Mitchell v. Brown Engineering Co.*, ante; *Chambers Construction Co. and L. H. Chambers v. Mitchell*, ante; *Ritch v. Puget Sound Bridge & Dredging Co.*, 156 F. (2d) 334 (C.A. 9).

¹² *Clyde v. Broderick*, 144 F. (2d) 348 (C.A. 10); *Durnil v. J. E. Dunn Construction Co.*, 186 F. (2d) 27 (C.A. 8); *Donahue v. George A. Fuller Co.*, 104 F. Supp. 145; Cf. *Mitchell v. Royal Baking Co.*, 219 F. (2d) 532 (C.A. 5).

¹³ *Reck v. Zarmacay*, 264 App. Div. 520, 36 N.Y.S. (2d) 394; *Colbeck v. Dairyland Creamery Co.*, 17 N.W. (2d) 262 (S. Ct. S.D.).